

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JOHNNIE M. DuBOSE,

Plaintiff,

v.

MICHAEL WALSH, IN HIS OFFICAL
CAPACITY AS NEW CASTLE COUNTY
AMERICAN BUSINESS CREDIT (ABC)
SHERIFF ROBERT K. BESTE, JR. ESQ.
MAGGIE CLAUSELL ESQ.,

Defendants.

CIVIL ACTION NO. 07-45 MPT

Demand for Jury Trial

MOTION FOR DEFAULT JUDGEMENT

COME NOW plaintiff, Prose and respectfully moves this court for an order of Default Judgment pursuant to Federal Rules of Civil Procedure 7 Pleadings. Allowed; Form of Motions (a) Pleadings. There shall be a complaint and an answer. No other pleading shall be allowed except that the court may order a reply to an answer or a third-party answer.

1. Evidence on the docket support that defendants did not answer the summons and complaint until well after the 20 days plus, after being served with the summons and complaint
2. In failing to grant plaintiff's motion for default judgment the court must apply the United States District Courts three standard rule test that the Supreme Court of the United States and the Third Circuit Court of Appeals has held that a District Court must consider whether or if;
 - a) The Plaintiff will be prejudiced
 - b) And if the Defendants could present a meritorious Defense?
 - c) Whether failing to consider FRCP 7

d) And failing to give credence to evidence of non-compliance of FRCP

7, 12 (b) culminated in the violation of Supreme Court Rule 10 (a) of the plaintiff's rights of Procedural Due Process of Law.

3. Plaintiff was not given any notice in writing of the date and time of a hearing of Defendant's Motion to dismiss as mandated by FRCP7. (b) Pleadings Allowed: Forms of Motions.

In denying the Plaintiff's Motion for Default Judgment, the court must apply the three factors of case law of (1) Prejudice (2) Merit and (3) Culpability, applied in Youngblood vs. West Virginia and Nationwide INS Co. v Starlight Ballroom. In these decisions the courts held these standards stating that a District Court must apply when considering a Default Judgment

Therefore, Plaintiff respectfully request this honorable court for default judgment against defendant(s)

1. American Business Credit, Inc
2. New Castle County Michael Walsh (Sheriff)
3. Robert Beste Jr. Esq.
4. Maggie Clausell Esq.

As said defendants failed to answer complaint in required 20 days and defendants untimely failing of Motions to Dismiss and Motion for Joinder are in violation of FRCP 12 (b) evidenced by Civil docket.

Date Mar. 15 2007



Johnnie DuBose Pro Se
4 Teakwood Lane
Wilmington, DE 198010

Certificate of Service

I, Johnnie DuBose, do hereby certify, that on this _____ day of March _____, 2007, two true and correct copies of the attached "Motion For Default Judgment for failure to "answer" "complaint" in accordance with FRCP, were given to the following:

By First-Class Mail

American Business Credit, Inc.
c/o Wilmington Trust SP Services (Delaware) Inc.
103 Springer Building 3411 Silverside Road
Wilmington, DE 19810

and

c/o George L. Miller, Chapter 7 Trustee
Miller Coffery Tate LLP
8 Penn Center, Suite 980
Philadelphia, PA. 19103

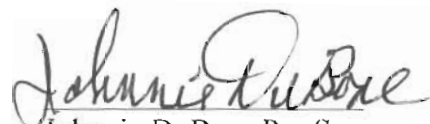
Michael Walsh, Sheriff New Castle, County
c/o Donald L. Gouge, Jr.
Heiman, Gouge & Kaufman LLP
800 King Street, Suite 303
P.O. Box 1674
Wilmington, DE 19899

Michelle Allen
New Castle County, Law Department
New Castle Corporate Commons
87 Reads Way
New Castle, DE 19720

Robert K. Beste, Jr
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Nemours Building, Suite 1130
1007 Orange Street
Wilmington, DE 19801

Maggie Clausell
c/o Paul L. Cottrell
Tighe & Cottrell, P.A.
704 King Street, Box 1031
1 Customs House
Wilmington, DE 19899

Date MAY 15 2007


Johnnie DuBose Pro Se
4 Teakwood Lane
Wilmington, DE 19810

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